

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

PHILIP PIDOT, NANCY HAWKINS and STEVEN
AXELMAN, individually and as representatives of
eligible Republican Party voters in Suffolk, Nassau and
Queens Counties within New York State's Third
Congressional District,

Plaintiffs,

-against-

NEW YORK STATE BOARD OF ELECTIONS;
SUFFOLK COUNTY BOARD OF ELECTIONS;
NASSAU COUNTY BOARD OF ELECTIONS; BOARD
OF ELECTIONS IN THE CITY OF NEW YORK;
PETER KOSINSKI and DOUGLAS KELLNER, in their
official capacities as Commissioners and Co-Chairs of the
New York State Board of Elections; ANDREW J. SPANO
and GREGORY P. PETERSON, in their official capacities
as Commissioners of the New York State Board of
Elections; TODD D. VALENTINE and ROBERT A.
BREHM, in their official capacities as Executive Directors
of the New York State Board of Elections; and JACK
MARTINS.

Defendants.

No. 16-cv-859 (FJS/CFH)

**DEFENDANT JACK MARTINS' NOTICE OF CROSS-MOTION PURSUANT
TO FEDERAL RULE OF CIVIL PROCEDURE 12(b)(1) AND/OR 12(b)(6)**

PLEASE TAKE NOTICE, that upon the accompanying papers, Memorandum of Law, any exhibits attached thereto, and upon proceedings heretofore had, Defendant Jack Martins, by his attorneys, DerOhannesian & DerOhannesian, will move this Court, before the Honorable Frederick J. Scullin, Jr., in the United States District Court for the Northern District of New York, for an Order for Judgment as a Matter of Law pursuant to Rule 12(b)(1) of the Federal

Rules of Civil Procedure because the Court lacks subject matter jurisdiction and/or 12(b)(6) of the Federal Rules of Civil Procedure because the Complaint fails to state a claim upon which relief can be granted, and that the Complaint be dismissed in its entirety with prejudice, together with such other and further relief that this Court deems just and proper.

Dated: August 5, 2016
Albany, New York

Respectfully submitted,

/s/ Paul DerOhannesian II

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Attorneys for Defendant Jack Martins

cc: All Counsel of Record (via ECF)